

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Pilot Grove Post Office
Pilot Grove, Iowa

Docket No. A2011-35

PUBLIC REPRESENTATIVE COMMENTS
(September 9, 2011)

On July 27, 2011, the Commission received two appeal letters from Sylvan J. Nichting and Joan M. Nichting objecting to the closing of a post office in Pilot Grove, Iowa. The letters were postmarked July 18 and July 19, 2011, respectively.¹ On August 1, 2011, the Commission issued Order No. 786 accepting the appeal, directing the Postal Service to file the administrative record by August 11, 2011, establishing a procedural schedule, and naming the undersigned Public Representative.² On August 11, 2011, the Postal Service filed the administrative record. On September 1, 2011, the Nichtings filed a participant statement.³ The Postal Service will serve Pilot Grove via rural carrier.⁴

In their letters, petitioner and interveners make the following assertions:

- The Pilot Grove post office is profitable.⁵
- The landlord is willing to reduce the rent.⁶
- The Postal Service never tried to fill the postmaster vacancy at Pilot Grove.⁷
- The Postal Service will not provide effective and regular service to Pilot Grove.⁸

¹ Notice of Filing under 39 U.S.C. § 404(d), July 28, 2011.

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 1, 2011.

³ Participant Statement, September 1, 2011.

⁴ Administrative Record (AR), August 11, 2011, at pdf page 147.

⁵ Participant Statement, September 1, 2011.

⁶ *Id.*

⁷ Petition for Review, July 27, 2011.

- The bank in Pilot Grove will have difficulty entering its large volume of letters and packages via the rural carrier.⁹

Legal considerations. Under 39 U.S.C. section 404(d)(2)(A), in making a determination on whether to close a post office, the Postal Service must consider the following factors: the effect on the community; whether a maximum degree of effective and regular postal service will be provided; the effect on postal employees; and the economic savings to the Postal Service. The issues raised by petitioner and interveners fall under the categories of effect on the community and regular and effective postal service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions of the Postal Service that it finds to be: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

Effect on the community. Sylvan J. Nichting alleges that closing the post office will impose a hardship on the community.¹⁰ The Nichtings will suffer a financial loss since they are the owners of the post office building.¹¹ The Pilot Grove Savings Bank raises concern about the security of its mail when delivered by a rural carrier.¹² The Bank also states that it will be inconvenienced when entering mail requiring special treatment, such as packages, certified mail, and registered mail.¹³ The Bank will also be inconvenienced by having to send its employees on a sixteen-mile round trip at least twice a day to enter and accept mail at a

⁸ Participant Statement, September 1, 2011.

⁹ Letter from Ted J. Vonderhaar, August 5, 2011.

¹⁰ Appeal Letter of Sylvan J. Nichting, July 27, 2001.

¹¹ Participant Statement, September 1, 2011.

¹² Letter from Ted J. Vonderhaar, August 5, 2011.

¹³ *Id.*

distant post office.¹⁴ Other than these burdens on specific customers, there does not appear to be an adverse affect on the community.

Regular and effective postal service. Petitioners and interveners all allege that rural delivery will not provide regular and effective postal service to Pilot Grove.¹⁵ However, only Pilot Grove Savings Bank alludes to a specific example. The Bank raised concern about the security of its mail when carried around the county and left in a roadside mailbox.¹⁶ Given that the Bank is a fairly large customer, it would seem to be operationally infeasible to deliver its mail to a rural mailbox. If this is the case, the Bank would not receive any postal service. The Postal Service responded to the Bank's concerns with a set of "canned" answers that could apply to a residential customer but not to a large-volume business customer.¹⁷ By forcing the Bank's concerns into preprogrammed pigeon holes, the Postal Service produced nonsensical responses and gave no consideration to the actual concerns.

Other concerns. The Nichtings assert that the Pilot Grove post office is profitable, that they are willing to reduce the rent charged the Postal Service, and that the Postal Service never tried to fill the postmaster vacancy. These are not factors that the statute requires the Postal Service to consider.

Conclusion. The Postal Service has failed to give consideration to the feasibility of providing effective and regular postal service to a large-volume mailer via rural carrier. However, this oversight is not so egregious as to warrant a remand.

Respectfully submitted,

¹⁴ Letter to PO Review Investigator from Ted J. Vonderhaar, February 24, 2011, AR, at pdf page 37.

¹⁵ Letter from Ted J. Vonderhaar, August 5, 2011; Participant Statement, September 1, 2011.

¹⁶ Letter to PO Review Investigator from Ted J. Vonderhaar, February 24, 2011, AR, at pdf page 37.

¹⁷ For example, "You expressed a concern about the collection of outgoing mail. Collection of mail will be made by the carrier when serving the route. The customer should raise the flag on the mailbox to alert the carrier that outgoing mail is to be collected from the mailbox." AR at pdf page 38.

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